



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 11244069

Date: OCT. 15, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a developer and manufacturer of semiconductors and system solutions, seeks to classify the Beneficiary, a staff engineer, as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary meets at least three of the ten initial evidentiary criteria for this classification. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, the Petitioner did not meet this burden. Accordingly, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Beneficiary is currently employed by the Petitioner as a “Staff Engineer – [redacted]” in L-1B nonimmigrant status. The Petitioner states that his work at the company “involves the design and development of novel [redacted] technology for [redacted]”<sup>1</sup> He was awarded a bachelor of engineering degree in 2005 and has 14 years of professional experience in the power electronics industry.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must demonstrate that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The Director found that the Beneficiary met two of these ten criteria, relating to judging the work of others in his field and performing in a leading or critical role for organizations that have a distinguished reputation. The record reflects that the Beneficiary has served as a peer reviewer of technical digests for the Applied Power Electronics Conference (APEC), thus satisfying the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). In addition, the Petitioner has submitted evidence to establish that the Beneficiary served in critical roles within its corporate group and with [redacted] both of which have a distinguished reputation. Accordingly, we agree that the Petitioner satisfied the leading or critical roles criterion at 8 C.F.R. § 204.5(h)(3)(viii).

The Director acknowledged the Petitioner’s claim that the Beneficiary meets four additional criteria at 8 C.F.R. 204.5(h)(3) but determined that the evidence did not demonstrate that he satisfied any of them. Those criteria are:

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<sup>1</sup> The Petitioner states that “[redacted] are the most widely used [redacted] in digital electronics,” noting they are found in [redacted] such as memory chips and microprocessors. The record reflects that [redacted] is a high-voltage [redacted] technology first introduced by the Petitioner’s group in 1999.

- (ii), Membership in associations which require outstanding achievements of their members;
- (iii), Published material in professional publications or major media;
- (v), Original contributions of major significance in the field; and
- (vi) Authorship of scholarly articles in the field.

On appeal, the Petitioner asserts that the Director erred in determining that the Beneficiary does not meet the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v). The Petitioner does not address or contest the Director's conclusions regarding the other claimed criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iii) or (vi). Issues or claims that are not raised on appeal are deemed to be waived. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009). *See also Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at \*1, \*9 (E.D.N.Y. Sept. 30, 2011) (the court determined the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

After reviewing all the evidence in the record, we conclude that the Petitioner has not established that the Beneficiary meets at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and therefore has not met the initial evidence requirements for this classification.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

In order to satisfy this criterion, the Petitioner must establish that not only has the Beneficiary made original contributions, but also that those contributions have been of major significance in the field.<sup>2</sup> For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. The phrase "major significance" is not superfluous and, thus, it has some meaning. *See Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). The burden is on the Petitioner to identify the Beneficiary's original contributions, explain their major significance in the field and support its claims with evidence.

Most of the evidence concerning the Beneficiary's contributions to the field of power electronics can be divided into two categories: his product design and development work as an engineer with the petitioner's group (in the United States and Austria) and his previous work as an engineer with [REDACTED] in India. Prior to the denial of the petition, the Petitioner provided evidence that included several recommendation letters,<sup>3</sup> copies of Application Notes authored or co-authored by the Beneficiary, invention disclosures, copies of various internal documents written by him, his Google Scholar citation summary, and magazine articles in which he was quoted.

As noted, the Director determined that the Petitioner submitted evidence to establish the Beneficiary's critical roles and his contributions to his employers' activities and concluded that he met the criterion

<sup>2</sup> See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 8-9 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>. (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

<sup>3</sup> Although we may not discuss every letter individually, we have reviewed and considered each one.

at 8 C.F.R. § 204.5(h)(3)(viii). The phrase “contributions of major significance in the field,” however, requires evidence of an impact beyond one’s employer and clients or customers. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. Dec. 16, 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

We will first address the Beneficiary’s work for the Petitioner’s group. At the time of filing, the Petitioner stated that the Beneficiary “has made several significant contributions to [redacted] and [redacted] technology.” In part, the Petitioner explained that he “has significantly contributed to the success of [the company’s] [redacted] portfolio” which is designed for chargers and adapters, lighting and LED TVs. [redacted], a vice president within the Petitioner’s [redacted] division, explains that the Beneficiary’s “original work on [redacted] failure modes in different power topologies lead to a better understanding for the how and why [redacted] fails under new stress conditions.” He further explains that the Beneficiary’s research and proposed solutions contributed to the development of a new generation of [redacted] that are more robust and help its customers, which include television manufacturers such as [redacted] design safer, more reliable power supplies. [redacted] further states that “other [redacted] vendors also soon followed the new [redacted] technique for improved robustness.”

[redacted] letter confirms that the Beneficiary contributed to the ongoing development and enhancement of one of the Petitioner’s [redacted] product lines that it supplies to certain television manufacturers. However, the record does not include corroborative support for his claim that the Petitioner’s competitors have used the same techniques to improve their comparable [redacted] products, nor does his broad statement sufficiently explain how the Beneficiary’s engineering solution to resolve [redacted] failures is recognized as a contribution of major significance in the field. Although the Petitioner submitted additional letters that discussed the Beneficiary’s work in this area, they are similarly lacking in detail regarding the influence or impact of his contribution. For example, [redacted] retired faculty of the Indian [redacted] notes that the Beneficiary’s analysis of the failure modes of [redacted] “helped the product line improve the overall product features to meet the safety standards of present day LEDTV power supplies.” While he echoes [redacted]’s statement that the improved [redacted] products can be found in many consumer products manufactured by companies the Petitioner supplies, he does not address whether or how the Beneficiary’s work has impacted the field beyond the Petitioner and its customers.

Related to this contribution is evidence of the Beneficiary’s work on the Petitioner’s [redacted] package” to address failure issues and improve [redacted] in industrial and open frame power supplies. The Petitioner indicates that this package was “the first of its kind at [the company]” and notes it was adopted by its own industrial and automotive divisions, but it did not explain or sufficiently document what, if any, impact it had in the field. A letter from [redacted] of [redacted] a formerly the Beneficiary’s colleague at [redacted] echoes the Petitioner’s statement that the [redacted] package was “the first of its kind” at the petitioning company. He also notes that, because the package developed by the Beneficiary was adopted by the Petitioner’s industrial and automotive divisions, it has led to “widespread usage of this innovative and reliable solution.” However, [redacted]’s broad statement that the [redacted] package is in widespread use within the petitioning company is not supported by sufficient evidence of its influence in the field, its adoption by competitors, or its major significance. In fact, while the Petitioner indicated that the Beneficiary’s introduction of a [redacted]’ version of the existing [redacted]

package was the first of its kind in the company, it did not clarify whether the solution was novel within the industry, nor did it state that it had been adopted by its competitors or otherwise influenced the field in a way that rises to “major significance.”

On appeal, the Petitioner asserts that it is now submitting evidence that the Beneficiary’s “original and significant contributions have been implemented by peers in the industry.” This evidence includes: an [redacted] 2016 press release announcing the Petitioner’s new [redacted] Package for its [redacted] a white paper related to this technology, authored by the Beneficiary; an [redacted] 2016 article titled “[redacted]” published by PntPower.com, which indicates that this company had introduced a portfolio of [redacted]; and product information regarding [redacted]

We note that the Petitioner’s brief does not address the significance of this new evidence. The evidence establishes that [redacted] is the Petitioner’s competitor and has released what appears to be a comparable product. However this evidence alone does not establish that the Petitioner was the inventor of the first [redacted] product in the field, that its competitor directly adapted the Petitioner’s use of the [redacted] design in its own [redacted] product released less than four months later, that introduction of this version of the [redacted] product was widespread, or that it is a contribution of major significance in the field. Beyond this evidence, the Petitioner simply asserts that, since the company itself is a market leader in [redacted], “it is implicit that [the Beneficiary’s] work is being implemented by others.” However, we cannot determine that the Petitioner’s market leadership provides presumptive evidence that each improvement to its existing products is recognized as an original contribution that remarkably impacts the field.

Additional contributions the Petitioner attributes to the Beneficiary include his work on “defining next generation [redacted]” and “testing and validation of . . . [redacted]s developed based on relatively new [redacted] technology.” With respect to the solid-state relays, [redacted] states that the Beneficiary led package development activities that resulted in prospective patent disclosures, but he also states that the product is still in the development stage and not expected to be delivered to customers until the end of 2021. A letter from [redacted] of [redacted] discusses the Beneficiary’s work in this area, noting the potential application of these new [redacted]s in electric vehicles. The Petitioner also submitted an “Invention Disclosure” submitted to the company by the Beneficiary and his colleague related to their work on [redacted]. While this evidence establishes the original nature of the work, the Petitioner has not demonstrated how this original contribution has already had an impact or influence on the field while still in a developmental stage.

Regarding the Beneficiary’s work on the Petitioner’s new [redacted], [redacted] states that he defined test setups for robustness and thermal testing, validated the company’s new family of [redacted] and developed design tools for comparing the thermal performance of different

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<sup>4</sup> The Petitioner also submits in the same exhibit an article titled [redacted] which appears to have been written by the Beneficiary, published in a 2017 issue of the German magazine *Elektronik*, and features an image of the Petitioner’s [redacted] product. The article is written in German and not accompanied by a translation. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3).

[redacted] for [redacted] in power supplies, which have been well-received by its customers. He notes that these new [redacted] help the Petitioner “retain the worldwide number one position of the [redacted] organization here in the US and provide an edge over competitors,” but he does not explain how the product line or the Beneficiary’s involvement in the final testing, validation and release stages, is an original contribution or how it has impacted the field, rather than the Petitioner’s standing in the field. [redacted] also generally emphasizes that the semiconductor products designed by his company’s research and development teams have gained “worldwide acceptance” but this statement does not establish that any given engineer who has contributed to its products has made original contributions of major significance within the meaning of 8 C.F.R. § 204.5(h)(3)(v).

While some of the other recommendation letters emphasize that the work the Beneficiary performs in the United States for the Petitioner will ultimately prove to be beneficial to the advancement of [redacted] [redacted] and [redacted], the record contains insufficient corroboration of its current impact. For example, [redacted] states that “[i]n the forthcoming years, [the Beneficiary’s] invention will be used by the general population in the U.S. and around the world” but it is unclear to what “invention” he is referring. [redacted] who was the Beneficiary’s colleague at [redacted] [redacted], states that the Beneficiary’s work for the Petitioner “greatly improves the efficiency and affordability of [redacted], making [redacted] a viable option for U.S. customers.” This statement is not supported by other evidence in the record, or even echoed in the [redacted] [redacted]’s own statements regarding the impact of the Beneficiary’s work; neither his letter nor the Petitioner’s supporting letters mention the applicability of the Beneficiary’s work to [redacted] or [redacted]. Rather, [redacted] generally stated that the Petitioner’s new generation [redacted] [redacted] and [redacted] “are useful to the entire technical community designing products in various areas of interest to the United States of America.” Letters that specifically articulate how a petitioner’s contributions are of major significance to the field and its impact on subsequent work add value.<sup>5</sup> On the other hand, letters that lack specifics do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>6</sup>

Overall, the Petitioner’s evidence related to the Beneficiary’s research and development activities demonstrates that he makes critical contributions to the ongoing improvement of the company’s products and is highly valued by the company for his expertise. However, the evidence does not establish how his work has remarkably impacted the power electronics field in which the Petitioner operates. The evidence indicates that the Beneficiary has been tasked with solved engineering problems, proposing new design features, and validating and documenting products prior to their release, thereby successfully fulfilling his duties as a staff engineer. Although the evidence confirms that the Beneficiary contributes to products sold to international customers, it does not show that the impact of his engineering contributions reaches beyond his own employer and its customers. Again, the Petitioner has stated that the implementation of the Beneficiary’s work by its competitors is “implicit” but this claim does not meet its burden to demonstrate the major significance of the Beneficiary’s contributions.

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<sup>5</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

<sup>6</sup> *Id.* at 9.

On appeal, the Petitioner asserts that the Director did not give sufficient weight to evidence that the Beneficiary has authored application notes for the company and specifically emphasizes documents titled [REDACTED] and [REDACTED].<sup>7</sup> At the time of filing, the Petitioner explained that application notes “help customers and consumers use the topologies that [the Beneficiary] has developed” at the company. A recommendation letter from [REDACTED] a former colleague of the Beneficiary’s, stated that “only the most innovative and influential work is reviewed in these publications,” and therefore, the application notes demonstrate the impact of the Beneficiary’s contributions on the field of power electronics. At the same time, the Petitioner stated in its initial letter that the Beneficiary writes application notes as one of his assigned job duties as a staff engineer engaged in product development activities. On appeal, the Petitioner repeats that writing these notes is “part of his job function” and intended “to aid new product promotion and provide technical support to customers.”

The Petitioner emphasizes that the application notes “confirm that [the Beneficiary’s] research results in practical, industrial applications that are utilized by engineers, consumers and customers across the globe.” Given the nature of the company as a component manufacturer, most if not all its engineers would reasonably be engaged in achieving practical applications that will be used by its customers in their own products. The Petitioner also provided evidence that the application notes have been published in different languages but based on the international nature of the company and its customers, it is unclear that the translation establishes the major significance of a product described in a particular application note.

Turning to the specific documents the Petitioner emphasizes on appeal, we note that the document [REDACTED] while co-authored by the Beneficiary, is not identified on its face as an application note but rather appears to be a restricted internal reference resource for use by the Petitioner’s customers. In fact, the Petitioner alternately refers to the document as a “failure catalog” that is used by engineers working for the company’s customers. The Petitioner notes the existence of academic papers and failure analysis guides issued by other vendors that also address the issue of [REDACTED] failures, but states that the Beneficiary’s report “is much more targeted and original.” However, the Petitioner has not explained how his authorship of a guide intended to be used by its customers’ engineers for troubleshooting is a contribution of major significance in the field of power electronics.

The other application note referenced on appeal, titled [REDACTED] [REDACTED] was not previously listed among the Beneficiary’s published notes. However, it was mentioned in [REDACTED]’s letter, where he noted that this document “guides power supply designers across the world to help them trouble shoot electromagnetic interference [REDACTED] related product qualification issues.” The Petitioner describes this application note as “highly popular” and asserts that it has “gained wide acceptance in the field of [REDACTED] troubleshooting” but does not elaborate. Although the Petitioner’s brief describes the document as “a significant contribution to the industry” it is unclear who is using the document or how it has been influential or remarkably impactful in the field. Like the failure analysis guide discussed above, it appears to have been intended

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<sup>7</sup> It appears that the Petitioner is referring to an application note titled [REDACTED] [REDACTED] a copy of which is submitted with the appeal.

as a technical resource for customers of the Petitioner that incorporate [redacted] power supplies into their own products.

Overall, the evidence indicates that authorship of application notes is a component of the Petitioner's job as a staff engineer for an electronic component manufacturer. These documents demonstrate his contributions to the ongoing development of some of the Petitioner's [redacted] product lines and undoubtedly assist international customers who incorporate the Petitioner's components into the design of their consumer products. However, the Petitioner has supported its claim that authorship of application note, in and of itself, represents a contribution of major significance in the field.

The Petitioner also claims that the Beneficiary's work for [redacted] resulted in original contributions of major significance in the field, and, on appeal, specifically refers to the Beneficiary's application note titled "[redacted]"

[redacted] notes in his letter that the Beneficiary performed "important work on [redacted]" that has inspired "continuous research and engineering efforts in the electrification of [redacted] and [redacted] appliances." He also notes that the application note had been cited by others in professional publications. However, he does not elaborate on how the Beneficiary's work in this area resulted in an original contribution of major significance in the field. The initial evidence included the Beneficiary's Google Scholar citation history indicating that his application note referenced above had been cited twice since its publication in 2014.

In response to a request for evidence, the Petitioner submitted an additional recommendation letter from [redacted] co-founder of [redacted] and [redacted]. He states that the Beneficiary's application note "[redacted]" was immensely helpful in his own company's development of cost-effective and reliable [redacted] suited for India's climate, noting that it "worked as a road map" for several aspects of development, and "helped us develop and build a cost-effective powertrain platform for [redacted] and their variants." [redacted] explains that the Beneficiary's paper offered a "blending of the mechanical (Physics) and electrical aspects of [redacted] design" which "we did not find in other literature." Finally, he states "I also know through [redacted] meet-up groups that other professionals in the [redacted] domain have also followed [the Beneficiary's] papers in their product development efforts." [redacted]'s letter confirms his own company's use of the Beneficiary's application note but alone, does not confirm that implementation of his work has been widespread or particularly influential in the [redacted] or power electronics field.

On appeal, counsel for the Petitioner further elaborates on this application note:

The main contribution of this paper is that for the first time such a paper revealed reliable control schemes using [redacted] that enabled designers to move away from a complex [redacted] or [redacted]

The other main contribution of this paper was to explain simple, cost-effective techniques to manage the auxiliary functions of the [redacted] such as pedal assist, over-current and over-voltage detection functionality. One of these features has now made its way to be included in the safety standards of every [redacted]. The over-current protection feature prevents using the [redacted] in high speed.



However, counsel's statements regarding both the original nature of the Beneficiary's work, and the claimed significance to the field (i.e., the incorporation of the Beneficiary's work into current safety standards for [REDACTED], are not supported by the evidence of record related to this contribution. Assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Counsel's statements must be substantiated in the record with independent evidence.

The Petitioner also submits evidence of additional papers that cite to the Beneficiary's application note on the [REDACTED] noting that as of 2020, it has been cited 15 times. Generally, citations can serve as an indication that the field has taken interest in a researcher's work; however, the fact that the Beneficiary has published application notes that other researchers have referenced, is not, by itself, sufficient to establish that he meets this criterion. Here, the Petitioner has not submitted sufficient evidence to show that his research on the [REDACTED] has provoked widespread commentary or received notice from others in the field at a level consistent with "contributions of major significance in the field."

The Petitioner draws attention to other evidence in the record, noting, for example, that the fact that the Beneficiary was quoted in magazine articles about his work with [REDACTED] is "clear and corroborating evidence of the importance and significan[ce] of [the Beneficiary's] significant and groundbreaking contributions to the field." The Beneficiary was quoted as [REDACTED] representative in an article titled "[REDACTED]" published in *Electronics For You*, and in an *Electronics Maker* article titled "[REDACTED]". He was not interviewed about the application note that is claimed to be an original contribution of major significance and we cannot determine that these interview opportunities demonstrate that he was recognized by the media for an original contribution of major significance. New evidence submitted on appeal also indicates that the Beneficiary has written and co-written magazine articles published in *Power System Design* about products that he worked on for the Petitioner. This magazine appears to run technical features written by engineers and others who work in the power electronics industry. However, the Petitioner has not demonstrated that publication of his articles in this magazine establishes that the field considers these products to be original contributions of major significance.

Finally, the Petitioner points to documentation submitted in support of other criteria in support of its claim that the Beneficiary has made "recognized contributions" to his field. For example, the Petitioner emphasizes the Beneficiary's senior membership in the Institute of Electrical and Electronic Engineers (IEEE), his co-founding role in the [REDACTED] IEEE EMC Chapter, his role and responsibilities with [REDACTED] [REDACTED], and the company recognitions he received from his former employer. However, the Petitioner has not explained how these successes support its finding that he has made an original contribution of major significance consistent with the requirements of 8 C.F.R. § 204.5(h)(3)(v).

For the foregoing reasons, considered individually and collectively, the evidence does not establish that the Beneficiary meets this criterion.

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final

merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.